Senate Bill 147

By: Senators Adelman of the 42nd, Jackson of the 2nd, Henson of the 41st, Stoner of the 6th and Thompson of the 5th

A BILL TO BE ENTITLED

AN ACT

To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities, so as to provide for portfolio standard goals for renewable and recoverable energy and energy efficiency; to provide for definitions; to provide for reports, incentives, penalties, and rules and regulations; to provide for a renewable and recoverable energy credits trading program; to provide for a registry of producers of renewable and recoverable energy in this state; to provide for credits for landfill gas or other renewable and recoverable energy in the form of gas supplied by a producer of renewable and recoverable energy and sold to a customer or gas distribution system; to provide for a reporting system to monitor compliance; to require integrated resource plans to include sufficient renewable and recoverable energy resources and energy efficiency options to meet the portfolio standard goals for renewable and recoverable energy and energy efficiency; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 46 of the Official Code of Georgia Annotated, relating to public utilities, is amended in Article 1 of Chapter 3, relating to generation and distribution of electricity, by adding a new part to read as follows:

"Part 4

46-3-71.

As used in this part, the term:

(1) 'Biomass material' means organic matter, excluding fossil fuels and black liquor, including agricultural crops, plants, trees, wood, wood wastes and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning, harvesting, or clearing residues; wood waste from pallets or other wood demolition debris; peanut shells; cotton

plants; corn stalks; and plant matter, including aquatic plants, grasses, stalks, vegetation, and residues, including hulls, shells, or cellulose containing fibers.

(2) 'Commission' means the Georgia Public Service Commission.

(3) 'Demand-side management' means activities, programs, or initiatives undertaken by an electric service provider or its customers to shift the timing of electricity use from peak to nonpeak demand periods. Demand-side management includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.

(4) 'Electric service provider' means any electric utility company engaged in the business of distributing electricity to retail or wholesale electric customers in this state, but shall not include an electric membership corporation or a municipal electric provider.

(5) 'Electric utility company' means an electric utility as defined in Code Section 46-1-1.

(6) 'Energy efficiency option' means an equipment, physical, measure, or program change implemented after January 1, 2009, that results in less energy used to perform the same function. Energy efficiency option includes, but is not limited to, energy produced from a combined heat and power system that uses renewable energy resources and includes demand-side management.

(7) 'Low impact hydropower' means a dam and powerhouse that:

(A) Is certified as low impact by the Low Impact Hydropower Institute; or

(B) Is evaluated by the commission as compliant with the following standards:

(i) Providing river flows that are healthy for fish, wildlife, and water quality, including seasonal flow fluctuations where appropriate;

(ii) Protecting water quality in the river;

(iii) Providing effective fish passage and protecting fish from entrainment;

(iv) Taking sufficient action to protect, mitigate, and enhance environmental conditions in the watershed;

(v) Avoiding negative impact on species classified as threatened or endangered by the federal or state government;

(vi) Avoiding inappropriate impact on cultural resources;

(vii) Providing free access to the water and accommodating recreational activities on the river; and

(viii) Avoiding recommendation for removal by a federal or state agency due to adverse environmental impact.

(8) 'Recoverable energy' means electrical energy produced from or by any of the following: the combustion of landfill gas; methane gas resulting from the anaerobic decomposition of organic materials; pyrolysis; gasification; biomass sources, including municipal solid waste (if fly ash and bottom ash resulting from incineration of municipal

solid waste is vitrified or treated by the best technology approved by the Environmental Protection Division of the Department of Natural Resources or by the United States Environmental Protection Division), any other waste product, and geothermal resources; postconsumer waste paper; or forest related sources, including mill residues, waste pallets, crates, and dunnage.

(9) 'Renewable energy' means electrical energy produced from or by any of the following: wind; solar energy; solar thermal; low impact hydropower; geothermal resources; ocean thermal energy; wave or tidal energy; biofuels derived from organic sources other than coal, petroleum, or natural gas; the combustion of landfill gas; methane gas resulting from the anaerobic decomposition of organic materials; plasma arc; pyrolysis; gasification; biomass; postconsumer waste paper; forest related sources, including mill residues, waste pallets, crates, and dunnage; or forest and agricultural biomass sources, including orchard tree crops, vineyard, grain, legumes, sugar, switchgrass, other crop by-products or residues, and precommercial thinning, slash, brush, or landscape trimmings, but not including old-growth timber.

(10) 'Renewable and recoverable energy credit' means a tradeable instrument created as an attribute of renewable and recoverable energy or energy efficiency in accordance with rules and regulations promulgated in accordance with Code Section 46-3-74. Renewable and recoverable energy credit for co-firing renewable and nonrenewable fuels shall mean only the renewable portion of British thermal units per kilowatt hour.

46-3-72.

(a) Each electric service provider shall establish a renewable and recoverable energy sources energy portfolio standard goal of:

(1) Five percent of its annual net electricity sales by December 31, 2015;

(2) Ten percent of its annual net electricity sales by December 31, 2020;

(3) Fifteen percent of its annual net electricity sales by December 31, 2025; and

(4) Twenty percent of its annual net electricity sales by December 31, 2030.

(b) When an electric service provider has reached the standard goal of 20 percent of annual net electricity sales, the electric service provider shall maintain a renewable and recoverable energy portfolio of at least 20 percent of its annual net electricity sales.

(c) Each electric service provider shall be able to use energy efficiency options as defined in paragraph (6) of Code Section 46-3-71 to meet a percentage of the renewable and recoverable energy portfolio standard goal through the implementation of energy efficiency options; provided, however, that an electric service provider shall be limited to a maximum of 1.6 percent by 2015, 3.3 percent by 2020, 5 percent by 2025, and 6.7 percent by 2030

of the requirements of this Code section through savings due to implementation of energy efficiency options.

(d) Any electric service provider shall establish an energy efficiency portfolio goal of:

(1) A cumulative reduction in consumption in megawatt hours by 10 percent of its annual net electricity sales by December 31, 2022; and

(2) An incremental annual reduction in consumption in megawatt hours of 1 percent of its annual net electricity sales in 2014 and each year thereafter.

The cumulative 10 percent reduction in consumption shall be measured against the base case for consumption forecasted by the electric service provider and accepted by the commission for the years 2011 through 2022.

(e) Use of electric power that is supplied by a new renewable energy facility or saved due to the implementation of demand-side management or energy efficiency options that exceeds the requirements of this Code section for any calendar year may be used by the electric service provider as a credit toward the requirements of this Code section in the following calendar year or may be sold by the electric service provider as a renewable and recoverable energy credit.

46-3-73.

(a) Any electric service provider not meeting the energy portfolio standard goal for the year shall report to the commission within 60 days following the annual goal date set out in Code Section 46-3-72 and provide an explanation for its failure to meet the goal.

(b) The commission may provide incentives to encourage electric service providers to exceed the energy portfolio standard goals or to meet such goals early, or both.

(c) The commission shall impose a civil penalty on each electric service provider that fails to reach a portfolio standard goal set out in Code Section 46-3-72 in accordance with this subsection:

(1) If the discrepancy between the portfolio standard goal and the achievement of the electric service provider is equal to or less than 10 percent of the goal, the penalty shall be 0.25 percent of the electric service provider's annual net electricity sales; and

(2) If the discrepancy between the portfolio standard goal and the achievement of the electric service provider is greater than 10 percent of the goal, the penalty shall be 1 percent of the electric service provider's annual net electricity sales.

(d) For electric service providers subject to rate determination by the commission, the cost of energy and energy credits and energy efficiency options to meet the energy portfolio standard goals or to meet such goals early shall be included in the rate base as expenses of the electric service provider in such rate determination. Penalties imposed by the commission for failure to achieve the standard goals for energy portfolios in accordance

with this part shall not be included in the rate base as expenses of the electric service provider in rate determination for electric service providers subject to rate determination by the commission.

46-3-74.

(a) No later than July 1, 2010, the commission shall adopt rules and regulations to implement, administer, and enforce this part.

(b) At a minimum, the rules and regulations shall:

(1) Require that proposed capacity additions shall meet the emissions requirements of the more stringent of the following:

(A) The Georgia rules and regulations for air quality; or

(B) The best achievable control technology;

(2) Require that the rate charged for any renewable and recoverable energy credit shall be determined by the actual cost of purchasing the renewable and recoverable energy credit plus reasonable administration expense as approved by the commission;

(3) In a manner consistent with any federal requirements for grants for energy programs under federal stimulus legislation, establish policies for compensating the electric service provider for implementing energy efficiency options. Such policies shall ensure that the provider's recovery of prudent fixed costs is timely and independent of its retail sales, provide cost recovery for prudent investments by the provider in energy efficiency, and provide an earnings opportunity for the provider associated with verified and cost-effective energy efficiency savings;

(4) Establish a registry of producers of renewable and recoverable energy in this state. Electric service providers may purchase renewable and recoverable energy or renewable and recoverable energy credits directly from producers on the Georgia registry. In promulgating rules and regulations in accordance with this paragraph, the commission shall provide for such procedures and processes to utilize renewable and recoverable energy credits from producers on the Georgia registry and from producers outside the state so as to achieve the maximum benefit to the state in terms of the state's economy, environment, and fuel diversity. The commission may establish and support other mechanisms for direct marketing of renewable and recoverable energy and energy credits by Georgia producers of such renewable and recoverable energy;

(5) Provide that an electric service provider may credit toward satisfaction of the goals set out in Code Section 46-3-72 any production or acquisition of renewable and recoverable energy in the form of gas sold to a customer or to a gas distribution system or credits based on such gas, based on conversion to kilowatt hours of the thermal energy content in British thermal units of the renewable and recoverable energy and using for the

conversion factor the system-wide average heat rate of the gas-fired units of the electric service provider's system as measured in British thermal units per kilowatt hour;

(6) Provide for a reporting system to monitor compliance with this part. The reporting system shall require electric service providers to report whether they are subject to energy portfolio requirements in more than one state, the amount of such requirements if applicable, and to indicate the sources of energy or energy credits used to comply with the energy portfolio goals in Georgia and the requirements of other applicable states;

(7) Provide for annual reporting by all electric service providers of any renewable and recoverable energy credits purchased, including whether such purchases were made inside or outside of the state, how the renewable and recoverable generation costs compared to cost from other generation sources, and the average price paid for the renewable and recoverable energy credits;

(8) Establish a renewable and recoverable energy credits trading program, including a program for energy efficiency credits, allowing any electrical service provider to purchase sufficient energy credits to meet the goals established in Code Section 46-3-72;

(9) Require that an electric service provider certify that any of its renewable and recoverable energy credits and energy efficiency credits sold meet state standards;

(10) Require that electric service providers shall alert the public through notices in their customers' monthly bills and through other advertisements about the renewable and recoverable energy credit and energy efficiency credit program and its projected monthly cost; and

(11) With respect to energy efficiency options:

(A) Require a variety of programs that are available, affordable, and useful to all customers;

(B) Ensure, to the extent feasible, that charges collected from a particular customer class are spent on programs for that class;

(C) Authorize a process by which commercial or industrial customers that meet or exceed a level of annual peak demand to be set by the commission may be exempted from charges for energy efficiency options if the customer files with the electric service provider and implements a self-directed energy savings plan based on an independent energy audit within the last three years;

(D) Require a process for obtaining an annual independent evaluation of the energy efficiency options implemented by the electric service provider to verify the incremental energy savings from each program and assess the provider's progress toward the energy efficiency portfolio standard goal; and

(E) Require that any energy efficiency options implemented, excluding offerings to low-income residential customers, will collectively be cost-effective under the total resource cost test, as that test is defined by the commission.

46-3-75.

(a) Electric service providers shall make requests for proposals for new renewable and recoverable resources and energy efficiency options at least once a year.

(b) The request for proposals shall:

(1) Request the amounts of megawatts or megawatt hours for the corresponding year or years of the energy portfolio standard goal;

(2) Show the electricity and energy credit rates as separate items;

(3) Require the resource to be located in the state or provide a reasonable basis for location outside of the state;

(4) Offer a term of up to 30 years; and

(5) Include information reasonably required to permit the electric service providers to evaluate the proposal.

(c) The acceptance or rejection of any proposals must be reported to the commission within 30 days.

(d) A request for proposals for new renewable and recoverable resources and energy efficiency options may be undertaken as a part of a general request for proposals for electricity supply resources.

(e) The commission shall review any proposal accepted by an electric service provider for purposes of certification and to determine if it meets cost recovery requirements.″

SECTION 2.

Said title is further amended in Code Section 46-3A-1, relating to definitions relative to integrated resource planning, by revising paragraph (7) as follows:

″(7) 'Plan' means an integrated resource plan which contains the utility's electric demand and energy forecast for at least a 20 year period, contains the utility's program for meeting the requirements shown in its forecast in an economical and reliable manner, contains the utility's analysis of all capacity resource options, including both demand-side and supply-side options, and sets forth the utility's assumptions and conclusions with respect to the effect of each capacity resource option on the future cost and reliability of electric service. The plan shall also:

(A) Contain the size and type of facilities which are expected to be owned or operated in whole or in part by such utility and the construction of which is expected to commence during the ensuing ten years or such longer period as the commission deems

necessary and shall identify all existing facilities intended to be removed from service during such period or upon completion of such construction;

(B) Contain practical alternatives to the fuel type and method of generation of the proposed electric generating facilities and set forth in detail the reasons for selecting the fuel type and method of generation;

(C) Contain a statement of the estimated impact of proposed and alternative generating plants on the environment and the means by which potential adverse impacts will be avoided or minimized;

(D) Indicate in detail the projected demand for electric energy for a 20 year period and the basis for determining the projected demand;

(E) Describe the utility's relationship to other utilities in regional associations, power pools, and networks;

(F) Identify and describe all major research projects and programs which will continue or commence in the succeeding three years and set forth the reasons for selecting specific areas of research;

(G) Identify and describe existing and planned programs and policies to discourage inefficient and excessive power use; ~~and~~

(H) Identify and describe existing and planned renewable and recoverable energy resources and energy efficiency options sufficient to comply with energy portfolio standard goals set out in Code Section 46-3-72;

(I) Identify and describe existing and planned renewable and recoverable generation resources and energy efficiency options used by the utility;

(J) With respect to the energy efficiency options in the plan sufficient to comply the energy portfolio standard goals:

(i) Establish the amount by which the average bill of customers in each class would be reduced by implementation of the energy efficiency options;

(ii) Establish the levelized cost per kilowatt hour of the energy efficiency options compared to the levelized cost per kilowatt hour of adding new capacity for each supply-side capacity option included in the plan; and

(iii) Establish the impact on rates of the energy efficiency options in the plan compared to the impact on rates of adding new capacity for each supply-side capacity option included in the plan. In comparing impacts on rates, any measure of impacts, such as the rate impact measure test or a projection of rate trajectory over the planning horizon, shall be applied to both energy efficiency options and supply-side capacity options; and

~~(H)~~(K) Provide any other information as may be required by the commission."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.